

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:11-CV-271-H

JOYCE M. LONEY,
Plaintiff,

v.

JASON R. BEGLEY, WAYNE W.
LUNSFORD, d/b/a RINCON
MANAGEMENT SERVICES, LLC,
Defendants.

ORDER

Plaintiff initiated this action on December 19, 2011, upon filing an application to proceed in forma pauperis against the defendants, Jason R. Begley, Wayne W. Lunsford, and Rincon Management Services, LLC. Plaintiff's application was allowed and, on March 1, 2012, plaintiff filed her complaint alleging that the defendants violated the Fair Debt Collections Practices Act, the Telephone Consumer Protection Act, and North Carolina law.

Prior to the filing of this action, the Federal Trade Commission brought suit against these same defendants in the United States District Court for the Central District of California. See FTC v. Rincon Mgmt. Servs., LLC, No. 5:11-CV-1623-VAP-SP (C.D. Cal. filed Oct. 11, 2011). On October 11, 2011, the United States District Court for the Central District of California entered an order freezing assets owned by the defendants and appointing a

receiver for Rincon Management Services, LLC, and other business entities. That court further stayed any other actions "to establish or enforce any claim . . . against [the defendants named herein, as well as] any of their assets" during the period of receivership. Order dated Oct. 11, 2011 [DE #5] at 24, FTC v. Rincon Mgmt. Servs., LLC, No. 5:11-CV-1623-VAP-SP. Specifically, the court stayed the commencement, continuation, entry or enforcement of "any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations." Id. at 25.

Plaintiff's action against defendants was subject to the stay entered by the United States District Court for the Central District of California. Accordingly, in March 2013, this court stayed this action pending dissolution of the receivership by the United States District Court for the Central District of California in FTC v. Rincon Mgmt. Servs., LLC, No. 5:11-CV-1623-VAP-SP (C.D. Cal.).

A review of the record reveals that judgment and preliminary injunction have been entered against Rincon Management Services and all the equitable relief sought by the plaintiff in the instant matter was granted by the California court. (See attached Judgment and Permanent Injunction, FTC v. Rincon, DE #319). Additionally, the judgment established a fund with Rincon's seized assets in

order to allow consumer redress.

Therefore, finding that all the equitable relief sought in this matter has been granted by another court, that a fund has been established for consumer redress, and that plaintiff has not attempted to update the court on the instant matter, the court hereby lifts the stay and dismisses this case without prejudice. Plaintiff may, upon proper motion and good cause shown, seek to have this matter re-opened by filing within 45 days.

This 10th day of March 2016.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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